

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

DASHALAHN BROWN,

:

Case No. 3:21-cv-190

Plaintiff,

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

- vs -

WRIGHT PATTERSON AIR FORCE  
BASE SENSORS DIRECTORATE  
AFRE/R.Y., et al.,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF No. 24), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, XPO Logistics, Inc.'s, Motion to Dismiss (ECF No. 13) is GRANTED and the Complaint is dismissed as to XPO without prejudice for lack of subject matter jurisdiction. Because reasonable jurists would not disagree with this conclusion, it is also recommended that the Court certify to the Sixth Circuit that any appeal would be objectively frivolous and should not be permitted to proceed in forma pauperis.

**DONE and ORDERED** in Dayton, Ohio, this 28th day of October, 2021.

  
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Thomas M. Rose  
United States District Judge